

REMARKS

This Amendment is believed to be fully responsive to the Office Action dated December 11, 2008 and the Office Action dated June 26, 2008. Claims 1-43 were pending in the present application. With this Amendment, claims 7-15, 17, 18, 23 and 39 have been amended, claims 1-6, 16, 19-22, 24-38 and 40-43 have been canceled, and claims 44-47 have been added. Thus, claims 7-15, 17, 18, 23, 39 and 44-47 are currently pending in this application. No new matter has been added.

I. Response to Office Action dated December 11, 2008

In the Office Action dated December 11, 2008, the Examiner indicates that the response filed on September 26, 2008 was non-responsive for the following reasons: 1) new independent claims 44-47 are drawn to a non-elected invention based on the original presentation of the claims; and 2) the Applicants did not fully respond to the rejections under 35 U.S.C. 112 and 35 U.S.C. 101. In particular, the Examiner notes that claims 39-43 are indicated as canceled, but claim 39 remains pending.

The Applicants representative contacted the Examiner on January 7, 2009 to discuss the issues identified in the Office Action dated December 11, 2008. At the conclusion of the discussion, it was agreed that additional arguments would be presented in a formal response to the Office Action dated December 11, 2008 to address the above issues. These additional arguments are presented below.

With respect to the first issue (i.e., 1) above), the Applicants note that the claims of the original application include system, apparatus, method and program claims directed to the distribution, management, receipt and use of content based on usage control information or data. Specifically, original claims 1-23 were directed to a content management system; original claims 24-29 were directed to a content usage management method; original claims 30-37 were directed to a client apparatus; original claims 38 and 39 were directed to a server; and original claims 40-43 were directed to programs implemented respectively in a server and a client apparatus. As noted above, the claims as originally presented were directed to the distribution, management, receipt and usage of content based on usage control information or data related to the content.

New claims 44-47 are similarly directed to the distribution, receipt and management of content based on usage control information or data. For example, claim 44 is directed to a content usage management system that includes a client apparatus and a distribution server. As noted above, original claim 1 was also directed to a content management system, which included a client apparatus and a distribution server. Additionally, claim 44 includes the features of original claim 6 directed to unicast and multicast distribution. Finally, claim 44 further limits the claimed invention to include additional features of the client apparatus and distribution apparatus to further distinguish the present invention from the cited prior art.

The Applicants assert that claim 44 is still directed to the use of content by a client apparatus that is distributed from a distribution server, wherein the use of the content is based on usage control information or data. Additionally, the features noted above in independent claim 44 are similarly recited in independent claims 45-47. Accordingly, claims 44-47 are directed to the elected invention based on the claims as originally presented.

With respect to the second issue (i.e., 2) above) regarding to the rejection under 35 U.S.C. 112, first paragraph, and the rejection under 35 U.S.C. 101, the Applicants have supplemented the REMARKS in the response filed on September 26, 2008 to address these rejections to claim 39. The REMARKS herein are meant to replace the REMARKS in the response dated September 26, 2008. Accordingly, in addition to the supplemented portions of the REMARKS, the arguments addressing the objections and rejections in the Office dated June 26, 2008 are repeated. In view of the above, reconsideration of the rejections and objections in the Office Action dated June 26, 2008, and examination on the merits are requested.

II. Response to Office Action dated June 26, 2008

The specification and abstract have been carefully reviewed and revised to make grammatical and idiomatic improvements in order to aid the Examiner in further consideration of the application. Amendments to the specification are contained herein. Moreover, a substitute Abstract including revisions has been prepared and is submitted herewith. Also submitted herewith is a marked-up copy of the Abstract indicating the changes incorporated therein. No new matter has been added.

In the Office Action, claims 19 and 20 have been objected to because of the term “judgment,” which the Examiner alleges is a typographical error. However, claims 19 and 20 have been canceled thereby rendering the objection to those claims moot.

Claims 30-43 have been rejected under 35 U.S.C. 101 on the basis that the claimed inventions are directed to non-statutory subject matter. Claims 30-38 and 40-43 are canceled thereby rendering the above rejection of those claims moot. Additionally, the Applicants have amended claim 39 to now depend from new claim 46, and claim 46 is believed to be directed to statutory subject matter.

In the Office Action, the Examiner alleges the claim 39 lacks the necessary physical articles or objects to constitute a machine or a manufacture within the meaning of 35 U.S.C. 101. However, as amended, claim 39 is dependent from claim 46, which is directed to a distribution server. That is, claim 46 is directed to a distribution server for distributing usage content. The structure for distribution servers in accordance with an embodiment of the present invention is disclosed at least in Fig. 1. As depicted in Fig. 1 (and described in the specification) one of ordinary skill in the art would understand the distribution server to be a physical computer. Thus, claim 46 is directed to a physical article or object that constitute a machine within the meaning of 35 U.S.C. 101. And, claim 39 is also directed to statutory subject matter based on its dependency from independent claim 46. Accordingly, the Applicants respectfully request that the rejection under 35 U.S.C. 101 be withdrawn.

Claim 30-43 have been rejected under 35 U.S.C. 112, first paragraph, because the scope of the claims is allegedly undeterminable such that one of ordinary skilled in the art would not know how to make or use the invention as claimed. As noted above, claims 30-38 and 40-43 have been canceled thereby rendering above rejection to those claims moot. Additionally, claim 39 (as amended) is now dependent from claim 46. Claim 46 is directed to a distribution server for distributing usage content. The structure the distribution servers in accordance with an embodiment of the present invention is disclosed in Fig. 1. As depicted in Fig. 1 (and described in the specification) it is believed that one of ordinary skill in the art would understand the distribution server to be a physical computer performing the features recited in the claims. Thus, the scope of the claims is determinable such that one of ordinary skill in the art would know how

to make and use the invention as claimed. Accordingly, the Applicants respectfully request that the rejection under 35 U.S.C. 112, first paragraph, be withdrawn.

In the Office Action, claims 1-43 have been rejected under 35 U.S.C. 102(e) as being anticipated by Negawa (U.S. Patent No. 7,055,030) (hereinafter referred to as “Negawa”).

New independent claims 44-47 have been drafted to distinguish over the references cited by the Examiner. Support for the subject matter recited in claims 44-47 can be found at least in Figure 1, Figure 12(d), and in the specification at page 20, lines 2-11.

The above rejections are submitted to be inapplicable to new claim 44 for the following reasons.

Claim 44 recites a content usage management system including, in part, a client apparatus that includes a usage control data receiving unit operable to receive usage control data including a key used for reproduction of the distributed content from at least one distribution server. Moreover, claim 44 recites a usage control data distribution unit operable to (a) distribute usage control data by a unicast distribution method where the usage control data is distributed in response to a request from a client apparatus, when a number of reproduction times of the content is limited, and (b) distribute the usage control data to a plurality of client apparatuses including the client apparatus by a multicast distribution method where the usage control data is distributed to the plurality of client apparatuses simultaneously at a predetermined distribution time, when the number of reproduction times of the content is not limited.

In contrast to the present invention, Negawa does not disclose determining whether to unicast or multicast usage control data including a key, based on a number of reproduction times of content. Instead, Negawa discloses IP multicasting data through the Internet and unicasting encrypted group session keys Kgrx to clients through the Internet (see col. 7, lines 15-20). It should be understood that the “data” described in Negawa corresponds to the “content” recited in claim 44, and that the “groups session keys Kgrx” described in Negawa correspond to the “key” as recited in claim 44. Moreover, there is no suggestion or disclosure to modify Negawa to determine to unicast or multicast usage control data including a key, based on a number of reproduction times of content.

In other words, Negawa does not disclose *a client apparatus that includes a usage*

control data receiving unit operable to receive usage control data including a key used for reproduction of the distributed content from at least one distribution server. Moreover, Negawa does not disclose a usage control data distribution unit operable to (a) distribute usage control data by a unicast distribution method where the usage control data is distributed in response to a request from a client apparatus, when a number of reproduction times of the content is limited, and (b) distribute the usage control data to a plurality of client apparatuses including the client apparatus by a multicast distribution method where the usage control data is distributed to the plurality of client apparatuses simultaneously at a predetermined distribution time, when the number of reproduction times of the content is not limited, as recited in claim 44.

Each of claims 45-47 similarly includes distributing usage control data by a unicast distribution method where the usage control data is distributed in response to a request from a client apparatus, when the number of reproduction times of the content is limited, and distributing the usage control data to a plurality of client apparatuses including the client apparatus by a multicast distribution method where the usage control data is distributed to the plurality of client apparatuses simultaneously at a predetermined distribution time, when the number of reproduction times of the content is not limited.

For at least the reasons discussed above, it is believed clear that Negawa fails to disclose or suggest the present inventions as recited in claims 44-47. Therefore, claim 44 and claims 7-15, 17, 18 and 23 depending therefrom, claim 45, claim 46 and claim 39 depending therefrom, and claim 47 are not anticipated under 35 U.S.C. 102(b) by Negawa, and no obvious modification of Negawa would result in or otherwise render obvious the invention recited in claims 44-47.

In the Office Action, claims 2-5 and 26-29 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Negawa in view of Doty, Jr. (U.S. Patent No. 6,795,869) (hereinafter referred to as "Doty").

Claims 2-5 and 26-29 are cancelled herein, thus rendering the rejection of these claims under 35 U.S.C. 103(a) moot.

Moreover, regarding the combination of Negawa and Doty, Doty is relied upon in the rejection as teaching "a smart server determining a video server to multicast content based upon

many factors including format, compression method etc.” However, it is clear that Doty also fails to disclose or suggest the above-discussed features of the interpolation frame generating device recited in claim 44.

For at least the reasons set forth above, it is believed clear that claims 44-47 are not anticipated by Negawa under 35 U.S.C. 102(b). Furthermore, for at least the reasons set forth above, it is respectfully submitted that one of ordinary skill in the art at the time the invention was made would not have found it obvious to modify Negawa under 35 U.S.C. 103(a) in such a manner as to result in the inventions of claims 44-47. Therefore, it is respectfully submitted that claim 44 and claims 7-15, 17, 18 and 23 depending therefrom, claim 45, claim 46 and claim 39 depending therefrom, and claim 47, are clearly allowable over the prior art of record.

In view of the foregoing amendments and remarks, all of the claims now active in this application are believed to be in condition for allowance. Reconsideration and favorable action are respectfully solicited.

Should the Examiner believe there are any remaining issues that must be resolved before this application can be passed to issue, it is respectfully requested that the Examiner contact the undersigned by telephone in order to resolve such issues.

Respectfully submitted,

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